

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 0:22-CV-61553-DIMITROULEAS/HUNT

CRUZ VALDIVIESO FIGUERA,

Plaintiff,

vs.

ALL VIP CARE INC., et. al,

Defendants,

and

PNC BANK, N.A.,

Garnishee.

**AGREED EMERGENCY MOTION
TO DISBURSE GARNISHED FUNDS**

Plaintiff, Cruz Valdivieso Figuera, and Defendants, All VIP Care Inc. and Liz Velazquez McKinnon, jointly agree to this emergency request that the Court enter an Order directing Garnishee, P.N.C. Bank, N.A., to promptly disburse the garnished funds as set forth herein, on an exigent basis, and considering the following statement of emergency and for good cause:

Statement of Emergency

The parties request the Court to address this Motion on an emergent basis because Defendant, All VIP Care Inc.'s account maintained at P.N.C. Bank, N.A., which is the subject of the garnishment, contains money to be used use towards satisfying Defendant's payroll obligations to its employees and independent contractors.

Entering an Order on an urgent basis will assist the Defendants in meeting their payroll and the Plaintiff (and her counsel) in receiving money that partially satisfies the attorney's fees and costs awarded.

Motion and Relief Requested

1. On November 1, 2023, this Court entered its Final Judgment, awarding Plaintiff the amount of \$1,768.00 against Defendant, All VIP Care Inc [ECF No. 130].

2. This Court then entered its Order Adopting the Report and Recommendation, awarding Plaintiff \$149,073.91 in attorney fees and taxable costs against Defendant, All VIP Care Inc., and awarding the Defendants \$1,869.41 in taxable costs against Plaintiff on September 4, 2024 [ECF No. 182].

3. On September 20, 2024, the Court issued a Writ of Garnishment upon P.N.C. Bank, N.A. (Exhibit "A") [ECF No. 187 (sealed)].

4. Although the Garnishee, P.N.C. Bank, N.A., has not yet filed its Answer to the Writ of Garnishment, Defendants learned that the account maintained by All VIP Care Inc. at this institution had been garnished and confessed that the account at issue contained funds sufficient to satisfy the writ of garnishment.

5. Pursuant to Chapter 56, Florida Statutes, the Plaintiff is entitled to recover the attorneys' fees and costs in collecting upon the judgment (award of fees/costs) issued in this case.

6. Plaintiff and Defendants reached an agreement to resolve the pending Writ of Garnishment, pursuant to which the parties agreed as follows as it related to the garnished account:

- a. That Garnishee, P.N.C. Bank, N.A., immediately disburse, issue a check, and/or transmit a wire in the amount of \$100,000.00 (One Hundred Thousand Dollars) payable to "FairLaw Firm" and to be received at 135 San Lorenzo Avenue, Suite 770, Coral Gables, Florida 331465 (and/or by wire transfer to its operating account with the wire instructions to be provided upon request) in partial satisfaction of the attorney's fees and costs awarded in this case;

- b. That Garnishee, P.N.C. Bank, N.A., immediately disburse and/or issue a check in the amount of \$100.00 (One Hundred Dollars) payable to its counsel for the statutory fee attendant to this garnishment proceeding;
- c. That Garnishee, P.N.C. Bank, N.A., immediately disburse and/or release to Defendant, All VIP Care Inc., the funds remaining in its account(s) after payment/disbursal of the \$100,000.00 to FairLaw Firm and the \$100.00 statutory fee to Garnishee's counsel; and
- d. That Plaintiff and her counsel will abate all efforts at collecting and/or enforcing the award of attorney's fees and costs through 4:00 p.m. on October 25, 2024.

7. Defendants contacted Garnishee, P.N.C. Bank, N.A., who advised that it needs 24-48 hours after receipt of an Order to release funds subject thereto.

8. The Verified Agreement and Release executed by Defendants is incorporated by reference and is attached to this Motion as Exhibit "B", and the parties request the Court to approve it.

9. Consequently, Defendants agree to the Court's entry of an Order in the form attached hereto that approves the Agreement and directs P.N.C. Bank, N.A. to promptly:

- a. disburse, issue a check to, and/or transfer \$100,000 to FairLaw Firm in partial satisfaction of the attorney's fees and costs awarded to Plaintiff;
- b. disburse and/or issue a check in the amount of \$100.00 to Garnishee's counsel for its statutory fee; and
- c. disburse and/or release the remaining funds to Defendants within 24 hours of receipt of this Order..

WHEREFORE Plaintiff, Cruz Valdivieso Figuera, requests that the Court enter and/or direct the Clerk of Court to issue an Order in the form appended hereto based on the statement of emergency, the agreement of the parties, for the good cause shown, and to approve their Agreement appended hereto as Exhibit "B".

Dated this 26th day of September 2024.

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